

HOW TO COLLECT A JUDGMENT

You will have to collect your money yourself if you win in Court.

The court will not collect the judgment for you. You need to contact the sheriff's office or a private levying officer to serve a writ of execution. Before you contact the sheriff's office or a levying officer you will need to get a writ of execution. Go to the justice court and request the forms for a Writ of Execution. Before the clerk will issue a writ of execution, you will need to provide the court with information concerning payments made on the judgment and costs incurred for process servers' fees. A judgment entered before October 1, 1999, is good for 5 years. Judgments entered after October 1, 1999, will be good for 6 years. Judgments entered beginning October 1, 2001 are good for 10 years. You are entitled to interest, at 10% per annum beginning with the date of the entry of judgment, and to payment for some of your costs incurred in collecting the judgment. After you collect your judgment, you must file a Satisfaction of Judgment with the clerk of the justice court.

You can not serve the writ of execution. It must be served by the sheriff's office or a private levying officer. A writ of execution is in effect 120 days from the date of issuance and may be served multiple times by the levying officer during that period. If the writ is returned unsatisfied or partially unsatisfied, a new writ of execution may be issued for the unsatisfied portion, together with costs and interest.

Some things you can do to try and collect the money owed you.

If the person who owes you money, called the judgment debtor, refuses to pay you the following are some things you can do to try and collect your judgment:

1. Garnish the Debtor's Wages.

A wage garnishment orders the debtor's employer to give you part of the debtor's wages until the debt is paid. Federal and state law places limits upon the amount of earnings subject to garnishment.

To garnish wages, bring your judgment to the clerk of court and ask for a writ of execution and take it to the sheriff or levying officer. You will have to provide the sheriff or levying officer with the debtor's employer's name and address. If the judgment debtor is self employed you do not request a writ of execution to garnish wages, but you may levy upon moneys owed by another person to the judgment debtor.

2. Levy upon the Debtor's Bank Account.

To levy on a bank accounts get a writ of execution from the clerk of court and take it to the sheriff or levying officer. This means that money will be taken from the debtor's bank account to pay the judgment. You will need to provide the sheriff or the levying officer with the name, address and branch of the bank.

3. File a Transcript of Judgment with the District Court.

Filing a "Transcript of Judgment" with the district court puts a judgment lien on any land, house or other building the debtor owns in the county where the transcript is filed. File the transcript in all counties where the debtor may own property. If the property is sold, the debt will be paid out of the proceeds of the sale. The judgment lien is good for 6 years. The judgment lien will also put a lien on property the debtor may buy in the future and prevent the debtor from refinancing

any property until the debt is paid.

To get a “Transcript of Judgment”, bring your judgment to the clerk of court and ask for “A Transcript of Judgment”. Take the “Transcript of Judgment” to the Clerk of the District Court to file. There is a fee to file the transcript.

4. Levy upon the Debtor’s Personal Property.

To levy upon the personal property of the judgment debtor get a writ of execution from the clerk of the court and take it to the sheriff or levying officer. You will need to describe the personal property to be levied upon for the sheriff or levying officer.

Some personal property is exempt from execution, i.e. one motor vehicle not to exceed \$1,200.00 and household furnishings not to exceed \$4,500.00 in aggregate value no item to exceed \$600.00 in value. There are other exemptions. If the judgment debtor used the property to secure a loan or to purchase the property, the security lien of the bank or finance company must be paid before any moneys from the execution will be applied to your judgment.

There are some other ways to try and collect judgments:

1 .Have the Sheriff or Levying Officer do a Till Tap.

If the debtor is a business with a cash register, the sheriff or levying officer can go to the business and take enough money out of the register to pay the judgment and their fees.

First get a writ of execution from the clerk of court and take it to the sheriff or levying officer. You must know the name and address of the business. If there is not enough money in the register to pay the judgment, you will have to pay another fee each time the sheriff or levying officer goes back.

2. Hold a Judgment Debtor Hearing.

A judgment debtor hearing requires the debtor to come to court and answer your questions about his/her salary, bank accounts, property and anything else that could be used to pay the judgment. If you wish, you can subpoena bank books, paycheck stubs, records, etc., before you hold the hearing. You will need a subpoena duces tecum. Contact the clerk of court about getting a subpoena duces tecum.

A judgment debtor hearing is not set automatically by the court. You must petition the court for a supplemental hearing to examine the judgment debtor. Your petition must be accompanied by an affidavit showing that a writ of execution was issued and that the debtor is withholding property from execution. No supplemental hearing will be set prior to the issuance of a writ of execution. If you want specific information or items to be brought to the hearing by the debtor ask the clerk to issue a subpoena duces tecum listing the items. Take the order setting the supplemental hearing and subpoena duces tecum to the sheriff or levying officer. The order setting the supplemental hearing and subpoena duces tecum must be served on the debtor by the sheriff or levying officer.

3. Suspend Debtor’s Driver’s License.

If you received a judgment for damages in a motor vehicle accident case, and the judgment is not paid within 60 days, you can have the debtor’s driver’s license suspended until the judgment is paid. The license can not be suspended for more than 6 years from the date the judgment was entered.

To get the driver's license suspended go to the clerk of court and request in writing that a certified copy of the judgment or a transcript of judgment be sent to the Montana Department of Motor Vehicles. Give the clerk of court a copy of the accident report. You will need to provide the clerk of court the defendant's birth date, driver's license number and the debtor's address. The clerk of court will not send the judgment to the Montana Department of Motor Vehicles without a written request from you.